PROPERTY AND CASUALTY INSURANCE

House Bill 1495 by Representative Nelson

- **This bill provides rate certainty and will prevent drastic rate increases for Citizens' customers. This bill lowers rates for Citizens' policyholders in anticipation of the mandated expiration of the rate freeze.**

- **Without this bill, on January 1, 2010, Citizens' customers will likely face *dramatic* overall average statewide rate increases - in excess of *40 percent* for personal residential multi-peril policies, *55 percent* for personal residential wind-only policies, *60 percent* for commercial residential wind-only policies, and *140 percent* for commercial nonresidential properties.**

- **Gradually bringing rates to actuarially sound levels will prevent Citizens from going bankrupt and will protect all Florida taxpayers from potentially devastating policy assessments or tax increases in the future.**

HOUSE BILL 1495

Florida has a hurricane problem that leaves the financial viability of Florida's property insurance market potentially swaying in strong winds. In 2004 and 2005, Florida was directly hit by eight hurricanes, which resulted in $9.15 billion in reimbursements to insurers from Florida's Hurricane Catastrophe Fund (FHCF) and a crisis of affordability in the private property and casualty insurance market.

While the FHCF had sufficient funds to reimburse insurers $3.95 billion for losses sustained during the 2004 hurricane season, the FHCF experienced a deficit due to the $5.20 billion necessary to reimburse insurers after the 2005 hurricane season. For the first time since the FHCF was created in 1993, the FHCF had to bond to cover the deficit and assessments were levied.[1] Furthermore, Citizens Property Insurance Corporation (Citizens) paid losses of over $5.7 billion, handled over 310,000 claims as a result of the 2004 and 2005 hurricane seasons, and was forced to levy three assessments to cover the deficit created by covering these losses.[2]

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[1] As a result of the deficit, a 1% assessment for eight years was levied on all property and casualty insurance policyholders subject to assessments.

[2] Prior to the 2004 hurricane season, Citizens had a surplus of approximately $1.8 billion, losses claimed from the 2004 hurricane season amounted to more than $2.4 billion and caused a deficit of $516 million. This resulted in a one-time regular assessment of 6.8% on property and casualty insurance companies and Citizens policyholders. While Citizens began the 2005 hurricane season with a $187.7 million surplus, losses sustained as a result of the 2005 storms left Citizens with a deficit of almost $1.8 billion. In 2006, the Legislature appropriated $715 million to defray some of the deficit and a one-time 2.04% regular assessment and 1.4%, 10-year emergency assessment was levied on property and casualty insurers and Citizens' policyholders to cover the remaining $887 million deficit.

The significant losses sustained and resulting deficits, as well as the lack of actuarially sound rates in Citizens, which now insures more than 1.1 million properties in Florida with an exposure of $415 billion, leaves Florida in an incredibly vulnerable position should we face an active hurricane season in the near future. In fact, the FHCF faces a potential $14.5 billion deficit for the 2008-2009 contract year[3] and a $19 billion deficit for the 2009-2010 contract year should Florida be hit by a hurricane or series of hurricanes. For the 2009 hurricane season, Citizens anticipates having a maximum of $6.103 billion to pay claims in the Personal Lines and Commercial Lines Accounts (PLA and CLA) and $8.92 billion to pay claims in the High Risk Account (HRA) before assessments would have to be levied. Because of the current state of the economy, it is unlikely that the FHCF or Citizens will be able to bond to cover any deficit, or purchase risk transfer products to alleviate some of the shortfall, that may occur in the very near future.

HB 1495 Makes Insurers Less Reliant on the FHCF for Reinsurance Needs and More Reliant on the Private Reinsurance Market

House Bill (HB) 1495 remedies the potential threats to Florida's property and casualty insurance market by reducing the exposure of the FHCF, increasing cash reserves of the FHCF and providing liquidity to the FHCF.

Reduces Exposure of the FHCF

Exposure is reduced by extending the fund's Temporary Increase In Coverage Limit Options (TICL) until December 31, 2013, but with a $2 billion reduction each year[4] and an annual corresponding decrease in the percentage of reimbursement available from the FHCF under this option. Additionally, the cost of TICL coverage and the FHCF mandatory coverage is increased annually for 5 years.[5]

To further reduce the exposure of the FHCF, the bill eliminates the State Board of Administration coverage option which provides $4 billion of FHCF exposure in excess of the $12 billion TICL coverage. The bill extends until December 31, 2011 the $10 million coverage option and allows it to be purchased by those insurance companies that purchased it in 2008 in addition to companies authorized to purchase this coverage under current law. Once an insurer qualifies for fund reimbursement FHCF reimbursement for this coverage, then the FHCF will reimburse the insurer for this coverage before reimbursement for the mandatory coverage.

Increases the Cash Balance of and the Liquidity to the FHCF

In order to increase the cash balance and the liquidity of the FHCF, HB 1495 increases the cost for reinsurance from FHCF for mandatory coverage. The FHCF must increase the price it charges insurance companies for the mandatory coverage for reinsurance by five percent annually beginning June 1, 2009 through January 1, 2013. After 2013, the factor will remain at 25 percent for all future contract years.

If the FHCF incurs a future deficit, then HB 1495 authorizes the SBA to purchase post-event revenue bonds issued by the FHCF as long as the investment is consistent with sound investment policy.[6] The SBA is allowed to require insurers purchasing FHCF coverage to notarize documents submitted to the SBA relating to the FHCF. Additionally, the FHCF must report its estimated claims-paying capacity twice a year – in May and October.[7]

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[3] The 2008-2009 contract year ends May 31, 2009.

[4] Reductions begin June 1, 2009.

[5] The increase begins on June 1, 2009. TICL coverage will cost two times the statutorily calculated price for the 2009-2010 contract year, three times the price in the 2010 transition contract year, four times the price in 2011, five times the price in 2012, and six times the price in 2013, the last year TICL coverage is available.

[6] Previously, the SBA purchased pre-event bonds from the FHCF ($150 million in 2006 and $50 million in 2007).

[7] Under current law, the FHCF is required to report the estimated borrowing capacity and projected fund balance.

HB 1495 Ensures Actuarially Sound Rates for Citizens Without Breaking Floridians' Banks

HB 1495 allows the current Citizens rate freeze to expire, but instead of the dramatic rate increases provided for in current law effective January 1, 2010, the bill limits those resulting rate increases to 10 percent on average statewide or 20 percent per individual policy until Citizens rates are actuarially sound.[8] Once rates are actuarially sound, Citizens is required to implement actuarially sound rates in accordance with current law.

Citizens may raise rates to recoup the increased cost of the FHCF mandatory coverage. Furthermore, should Citizens experience a deficit, then the Citizens Policyholder Assessment is raised from 15 percent to 25 percent per account, and a provision in current law requiring Citizens to reduce the high risk account area because the Citizens' probable maximum loss has not been reduced sufficiently since 2002 is repealed. Additionally, the bill provides a two year extension of the effective date of current law requiring citizens' homeowners with home insured for $500,000 or more and located in the wind borne debris region to disclose the home's windstorm mitigation rating on sale.[9]

Provides More Opportunity For Mitigation Grants

Ten percent of the revenues raised by the gradual rate increase for Citizens rates will be used to fund mitigation grants for Citizens' policyholders under the My Safe Florida Home Program. Once the rates Citizens charges are actuarially sound, Citizens will stop transferring the funds. The mitigation grants will be administered by the My Safe Florida Home Program within the Department of Financial Services. Citizens estimates that $26 million annually will be transferred to the My Safe Florida Home Program for mitigation grants.

Furthermore, the bill expands the mitigation improvements available to be installed with mitigation grants provided by the My Safe Florida Home Program,[10] repeals the no interest loan program,[11] and requires that program contracts valued at $1 million or more[12] be reviewed and approved by the Legislative Budget Commission.

The bill creates a new loan program available to condominium associations wanting to weatherize and mitigate their condominium units. This program is only implemented if the Legislature appropriates funds from the federal American Recovery and Reinvestment Act of 2009 to fund the program.[13]

Amends Other Property and Casualty Insurance Provisions

HB 1495 also amends current laws relating to Property and Casualty Insurance to:

- Allow insurers to recoup the cost of private reinsurance in specified instances, up to 10 percent.
- Allow insurers to vary rates up to 10 percent with oversight by the Office of Insurance Regulation (OIR).
- Require a review and report on mitigation discounts by the Florida Commission on Hurricane Loss Projection Methodology.
- Expand who can offer debt cancellation products.
- Add new requirements to local government self insurance funds.

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[8] Rate decreases in greater percentages can be implemented.

[9] Per the bill, the provision will not take effect until January 1, 2012.

[10] Thus, under the bill the mitigation improvements will include: opening protections; exterior doors; including garage doors; bracing gable ends; reinforcement of roof-to-wall connections; improving the strength of roof-deck attachments; upgrading the roof covering from code to code plus; and installing secondary water barriers for roofs.

[11] DFS could not find a vendor to implement this program.

[12] Current law requires review of contracts valued at $500,000 or more.

[13] Condominium associations must be located in the wind borne debris region and permitted for construction on or before March 1, 2002 to be eligible to participate in the condominium weatherization and mitigation loan program.

- Extend the "use and file" prohibition an additional year.[14]
- Provide that mitigation discounts given in accordance with the uniform home grading scale supersede the mitigation discounts provided under current law.
- Provide for two additional property types on which an insurer can write a property insurance policy that does not cover windstorm damage.[15]
- Modify provisions related to OIR attorney-client and work-product privileges.
- Allow for the continuation of multi-policy discounts for certain policyholders.
- Allow insurance agents to provide explanations about FIGA to policyholders, prospective policyholders, or applicants for insurance coverage under certain conditions.
- Prohibiting OIR from interfering with an insurer's right to solicit, sell, promote or otherwise acquire policyholders and implement coverage in rate filings.

HB 1495 is a responsible means of ensuring a more viable, sustainable property insurance market in Florida. By making Citizens rates actuarially sound and decreasing the FHCF's exposure, we will reduce the likelihood of deficits and assessments in the future. Moreover, while rates may increase due to necessary provisions in the bill, these rate increases are implemented in a gradual manner so as to not break the bank for Floridians. Additionally, some Citizens' homeowners should have reduced property insurance premiums as a result of increased opportunities for home mitigation provided by the bill.

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[14] Use and file options allow an insurer to implement a rate that is lower than the current rate most recently approved prior to it being approved by OIR, but OIR may require the insurer to refund the policyholder that portion of the rate found by OIR to be excessive. Pursuant to the bill, this provision will expire on December 31, 2010.

[15] This includes properties located in the Citizens high risk account and not eligible for Citizens' coverage because the property is insured for $2 million or more and properties located in the Citizens high risk account and not eligible for Citizens' coverage because the property is insured for $750,000 or more, is located in the wind borne debris region defined in the International Building Code, and does not have shutter or opening protections on all openings.